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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/909,333 | 07/19/2001 | Zicai Liang | 45687-00060 | 9617 |

23932 7590 08/23/2002
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[REDACTED] EXAMINER

FORMAN, BETTY J

[REDACTED] ART UNIT [REDACTED] PAPER NUMBER

1634

DATE MAILED: 08/23/2002

8

Please find below and/or attached an Office communication concerning this application or proceeding.



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| APPLICATION NO./ CONTROL NO. | FILING DATE | FIRST NAMED INVENTOR / PATENT IN REEXAMINATION | ATTORNEY DOCKET NO. |
|---------------------------------|-------------|---|---------------------|
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EXAMINER

ART UNIT PAPER

8

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Commissioner of Patents and Trademarks

The reply filed on 26 June 2002 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s):

In response to the Restriction Requirement, Applicant did not elect an invention to be examined, even though traversed, as required (see 37 C.F.R. 1.143 and 37 CFR 1.111). Applicant's response included an amendment to Claim 18 and statement that as amended, the claims are no longer distinct. The amendment and statement are non-responsive to the Restriction Requirement because, as stated above, Applicant did not elect an invention as required. As stated in the Restriction Requirement, the product and process are distinct because the product can be made by another and materially different process. Additionally, the courts have stated that "even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process." In re Thorpe, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985) see MPEP 2113. Therefore, the method of Claims 1-17 are patentable distinct from the microchips of Claims 18-34.

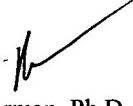
Since the above-mentioned reply appears to be *bona fide*, applicant is given ONE (1) MONTH or THIRTY (30) DAYS from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BJ Forman whose telephone number is (703) 306-5878. The examiner can normally be reached on 6:30 TO 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Jones can be reached on (703) 308-1152. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-4242 for regular communications and (703) 308-8724 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.


BJ Forman, Ph.D.
Patent Examiner
Art Unit: 1634

August 21, 2002